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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,610	06/28/2006	Bjorn Oddvar Borresen	06117.0007.PC/US00	8171
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,610

Applicant(s)

BORRESSEN ET AL.

Examiner

PHI D. A

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,9-15 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9-15,18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

PRODUCT BY PROCESS CLAIM:

“ The subject matter in claim 10 “ applied to the spacing strip or the glass block during manufacture” present is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

Claims 5, 8, 16, 17 were cancelled on 7/16/2009. The claims cannot be reintroduced.

Applicant, however, can present new claims with the same limitations. The claims 5, 8, 16, 17 are thus not considered for merits as they are cancelled claims.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 3-4, 10, 12-15, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (6823634) in view of Univerferth (2157038).

Wright (figures 6 and 9), shows a system for the construction of glass block walls, comprising an elongate, generally planar spacing strip of plastics material, having upper and lower surfaces forming an outer cross section generally corresponding in shape to an intended spacing between two adjacent blocks in the completed construction, the spacing strip comprising a body portion having a first thickness and having, a centrally disposed elongate channel on upper and lower surfaces thereof, and flange portions having a second thickness less than the

first thickness, the flange portions extending laterally from the body portion, the spacing strip having a generally hollow interior with relatively thin upper and lower walls, wherein the flange portions are at least partially hollow, the hollow interior is provided with transverse reinforcing webs between the upper and lower walls.

Wright does not disclose an adhesive for adhesion between the strip and a glass block, the adhesive is a one component polymer adhesive that hardens by evaporation of a solvent and comprises groups which compatibilise the polymer with plastics material.

Univerferth discloses the use of adhesive and spacing strip together to securely attach blocks together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wright's strip to show an adhesive for adhesion between the strip and a glass block material because it enables the easy secure attachment of the blocks together as taught by Univerferth, and having the adhesive being a one component polymer adhesive that hardens by evaporation of a solvent and comprises groups which compatibilise the polymer with plastics would have been obvious to one having ordinary skill in the art as it would have been an obvious matter of engineering design choice to choose a particular mixture/makeup of adhesive to attach the blocks to the strip as long as it provides for easy, and secure fastening of the blocks to the strips..

Per claim 10, Wright as modified further show the adhesive being applied to the strip during manufacture (see also Product by Process limitations policy above).

Per claims 18-20, Wright as modified shows all the claimed structural limitations. The claimed method steps would have been the obvious method steps of constructing a glass block wall with Wright's modified structures.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (6823634) in view of Univerferth (2157038).

Wright as modified shows all the claimed limitations except for the adhesive contains a methylcyclohexane based solvent.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wright's modified structure to show the adhesive contains a methylcyclohexane based solvent since it would have been an obvious matter of engineering design choice to choose a particular mixture/makeup of adhesive to attach the blocks to the strip as long as it provides for easy, and secure fastening of the blocks to the strips.

4. Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (6823634) in view of Univerferth (2157038).

Wright as modified shows all the claimed limitations except for a removable protective layer covering the adhesive prior to use.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wright's modified structure to show a removable protective layer covering the adhesive prior to use in order to ensure the strip not sticking to other structures prior to usage, and the use of removable protective layer to cover a sticking surface prior to use is well known in the adhesive art; for example: double sided tape with covers.

Response to Arguments

5. Applicant's arguments filed 3/1/2010 have been fully considered but they are not persuasive.
6. Applicant's statements to a potential Declaration 1.131 to antedate the reference to Wright is not persuasive as there is no such document on record to be considered. The "Will be submitted copy of the video" is also not of record. Examiner can only review a document that is available in the record. Thus, the rejection is repeated above.

Conclusion

7. This is a RCE of applicant's earlier Application No. 10/549610. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

3/10/2010